(A) Procurement Sanction.—The United States Government shall not procure, or enter into any contract for the Procurement of, any goods or services from the sanctioned persons; and

(B) Import Sanction.—The importation into the United States of products produced by the sanctioned persons shall be prohibited.

These sanctions apply not only to the companies described above, but also to their divisions, subunits, and any successor—entities. Questions as to whether a particular transaction is affected by the sanctions should be referred to the contract listed above. The sanctions shall commence on May 18, 1995. They will remain in place for at least one year and until further notice.

These measures shall be implemented by the responsible agencies as provided in Executive Order 12851 of June 11, 1993.

Dated: May 19, 1995.

## Eric D. Newsom,

Acting Assistant Secretary of State for Political-Military Affairs.

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## Office of Defense Trade Controls [Public Notice 2216]

## Statutory Debarment Under the International Traffic in Arms Regulations

**AGENCY:** Office of Defense Trade Controls, Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of which persons have been statutorily debarred pursuant to § 127.7(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130).

**FFECTIVE DATE:** June 7, 1995. **FOR FURTHER INFORMATION CONTACT:** Philip S. Rhoads, Chief, Compliance Enforcement Branch, Office of Defense Trade Controls, Department of State (703–875–6650).

**SUPPLEMENTARY INFORMATION:** Section 38(g)(4)(A) of the Arms Export Control Act (AECA), 22 U.S.C. 2778, prohibits licenses or other approvals for the export of defense articles and defense services to be issued to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term "person", as defined in 22 CFR 120.14 of the International Traffic in Arms Regulations (ITAR), means a natural person as well as a corporation,

business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. The ITAR, specifically § 126.7(e), defines the term 'party to the export" to include the president, the chief executive officer, and other senior officers and officials of the license applicant; the freight forwarders or designated exporting agent of the license applicant; and any consignee or end-user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis. 22 U.S.C. 2778(g)(4).

The ITAR, section 127.7, authorizes the Assistant Secretary of State for Political-Military Affairs to prohibit certain persons convicted of violating, or conspiring to violate, the AECA, from participating directly or indirectly in the export of defense articles or in the furnishing of defense services for which a license or approval is required. Such a prohibition is referred to as a "statutory debarment," which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. See 22 CFR 127.7(c). The period for debarment will normally be three years from the date of conviction. At the end of the debarment period, licensing privileges may be reinstated at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by the AECA, 22 U.S.C. 2778(g)(4).

Statutory debarment is based solely upon a conviction in a criminal proceeding, conducted by a United States court. Thus, the administrative debarment procedures, as outlined in the ITAR, 22 CFR part 128, are not applicable in such cases.

The Department of State will not consider applications for licenses or requests for approvals that involve any person or any party to the export who has been convicted of violating, or of conspiring to violate, the AECA during the period of statutory debarment. Persons who have been statutorily debarred may appeal to the Under Secretary for International Security Affairs for reconsideration of the ineligibility determination. A request for reconsideration must be submitted in writing within 30 days after a person has been informed of the adverse decision. 22 CFR 127.7(d).

The Department of State policy permits debarred persons to apply for

reinstatement of export privileges one year after the date of the debarment, in accordance with the AECA, 22 U.S.C. 2778(g)(4)(A), and the ITAR, section 127.7. A reinstatement request is made to the Director of the Office of Defense Trade Controls. Any decision to reinstate export privileges can be made only after the statutory requirements under section 38(g)(4) of the AECA have been satisfied through a process administered by the Office of Defense Trade Controls. If reinstatement is granted, the debarment will be suspended.

Pursuant to the AECA, 22 U.S.C. 2778(g)(4)(A), and the ITAR, 22 CFR 127.7, the Assistant Secretary for Political-Military Affairs has statutorily debarred twelve persons who have been convicted of conspiring to violate or

violating the AECA.

These persons have been debarred for a three-year period following the date of their conviction, and have been so notified by a letter from the Office of Defense Trade Controls. Pursuant to ITAR, section 127.7(c), the names of these persons, their offense, date(s) of conviction and court(s) of conviction are hereby being published in the **Federal Register**. Anyone who requires additional information to determine whether a person has been debarred should contact the Office of Defense Trade Controls.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

In accordance with these authorities the following persons are debarred for a period of three years following their conviction for conspiring to violate or violating the AECA (name/address/ offense/conviction date/court citation):

- 1. Paul LaVista, 2520 Olive Springs Rd., Marietta, GA 30060, 22 U.S.C. § 2778 (violating the AECA), September 25, 1992, *United States* v. *Paul LaVista*, U.S. District Court, Western District of Washington, Criminal Docket No. CR92–346C.
- 2. Satish Shah, 46 Glynn Court, Parlin, NJ 08859, 18 U.S.C. § 371 (conspiracy to violate 22 U.S.C. § 2778), May 10, 1993, *United States* v. *Tzvi Rosenfeld, et al.*, U.S. District Court, Middle District of Tennessee, Criminal Docket No. 3:91–00163–04.
- 3. Menachim Rosenfeld, c/o Lionel Lufton, 174 East Bay Street, Suite 302, Charleston, SC 29402, 18 U.S.C. § 371 (conspiracy to violate 22 U.S.C. § 2778), August 23, 1993, *United States* v. *Tzvi Rosenfeld, et al.*, U.S. District Court, Middle District of Tennessee, Criminal Docket No. 3:91–00163–01.